

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUSANNA MIRKIN and BORIS MIRKIN,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

XOOM ENERGY, LLC and XOOM ENERGY
NEW YORK, LLC,

Defendants.

No. 18 Civ. 2949 (ARR) (JAM)

**REPLY DECLARATION OF MICHAEL D. MATTHEWS, JR.
IN FURTHER SUPPORT OF XOOM's MOTION TO DECERTIFY THE CLASS**

Michael D. Matthews, Jr., under penalty of perjury, declares as follows:

1. I am a partner of the law firm McDowell Hetherington LLP, attorneys for Defendants XOOM Energy, LLC and XOOM Energy New York, LLC. I submit this Reply Declaration in further support of XOOM's motion to decertify the class.

2. Annexed hereto as **Exhibit 1** is a true and correct copy of XOOM's proposed verdict form.

3. Annexed hereto as **Exhibit 2** is a true and correct copy of the Expert Report of Frank Felder, Ph.D., which was electronically filed on August 6, 2021 in *Gonzales v. Agway Energy Svcs, LLC*, N.D.N.Y. No. 18-cv-00235.

4. Annexed hereto as **Exhibit 3** is Plaintiff's individual overcharge calculation under her Model Two using, in place of the corresponding-fixed-rate-margin input that Plaintiff's expert used, the average of the same model's variable-rate margins for Plaintiff alone.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 10, 2024.

A handwritten signature in black ink, appearing to read "Michael D. Matthews, Jr.", written over a horizontal line.

Michael D. Matthews, Jr., Esq.